

FILED

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EUGENE R. WEDOFF,
BANKRUPTCY JUDGE

In re:

CANOPY FINANCIAL, INC.

Debtor.

Case No. 09 B 44943

Chapter 7

**FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDER AWARDING TO
SEYFARTH SHAW LLP, ATTORNEYS FOR TRUSTEE, FOR ALLOWANCE AND PAYMENT OF
INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES**

TOTAL FEES REQUESTED: **\$924,266.00**
TOTAL FEES REDUCED: **\$1,338.40**
TOTAL FEES ALLOWED: **\$922,927.60**

TOTAL COSTS REQUESTED: **\$32,245.05**
TOTAL COSTS REDUCED: **\$0.00**
TOTAL COSTS ALLOWED: **\$32,245.05**

TOTAL FEES AND COSTS ALLOWED: \$955,172.65

The attached time and expense entries have been underlined to reflect disallowance in whole or in part. The basis for each disallowance is reflected by numerical notations that appear on the left of each underlined entry. The numerical notations correspond to the enumerated paragraphs below.

Due to the length of the fee application, the court employed a sampling methodology to review the application. The court reviewed approximately one quarter of all of the time entries and multiplied the amount of fees disallowed in the sample by four to arrive at the total amount disallowed.

(4) Insufficient Description

The Court denies the allowance of compensation for the following task since the description of the time entry fails to identify in a reasonable manner the service rendered. *In re Pettibone*, 74 B.R. 293, 301 (Bankr. N.D. Ill. 1987) ("A proper fee application must list each activity, its date, the attorney who performed the work, a description of the nature and substance of the work performed, and the time spent on the work. [Citation omitted] Records which give no explanation of the activities performed are not compensable."); *In re Wildman*, 72 B.R. 700, 708-9 (Bankr. N.D. Ill. 1987) (same).

(7) Lumping

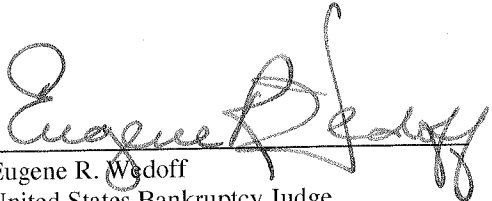
The Court may impose a ten percent penalty for "lumping." *In re Wildman*, 72 B.R. 700, 709 (Bankr. N.D. Ill. 1987) ("Applicants may not circumvent the minimum time requirement or any of the requirements of detail by "lumping" a bunch of activities into a single entry. [citation omitted]. Each type of service should be listed with the corresponding specific time allotment.").

(12) Clerical Work Not Compensable

The court disallows the compensation of clerical or stenographic employees of the professional for the performance of routine clerical or administrative activities in the normal course of the professional's business, such as photocopying, secretarial work, or routine filing. Such activities are not in the nature of professional services and must be absorbed by the applicant's firm as an overhead expense. *In re Dimas, LLC*, 357 B.R. 563, 577 (Bankr. N.D. Cal. 2006) (citing *Missouri v. Jenkins*, 491 U.S. 274, 288 n. 10 (1989)). See also *In re Chellino*, 209 B.R. 106,

114 (Bankr. C.D. Ill. 1996) (Paralegal, but not "clerk" services entitled to compensation at an hourly rate; clerk activities are overhead of the professional); *Souza v. Miguel*, 32 F.3d 1370, 1375 (9th Cir. 1994) (Trustee not entitled to reimbursement or compensation of overhead expenses such as secretarial, stenographic, clerical, and routine messenger services).

Dated: November 22, 2011


Eugene R. Wedoff
United States Bankruptcy Judge

06/23/11	Discuss the results of searches in the Ringtail review platform identifying emails that were sent between [REDACTED] (30); prepare additional documents related to [REDACTED] for review by contract attorneys (30).	S. Knight	0.60	120.00
06/23/11	Review documents regarding [REDACTED] (1.30); call with J. DeJonker regarding [REDACTED] (.20); call with G. Paloian regarding [REDACTED] (.30).	C. Robertson	1.80	927.00
06/23/11	Compile list of Ringtail documents regarding [REDACTED]	A. Shepro	2.20	187.00
06/23/11	Discuss the results of searches in the Ringtail review platform identifying emails that were sent between [REDACTED] (30); prepare the results for review by contract attorneys (.30).	M. Christoff	0.60	120.00
06/24/11	Review additional production from [REDACTED]	G. Paloian	0.30	172.50
06/24/11	Review documents regarding [REDACTED]	C. Robertson	0.90	463.50
06/24/11	Compile ringtail documents regarding [REDACTED] for J. DeJonker (2.20); <u>FedEx same documents to C. Robertson (.20).</u>	A. Shepro	2.40	204.00
06/24/11	Correspondence to/from [REDACTED] (.20); examine document reviewer staffing and progress on [REDACTED] review (.20).	J. Priebe	0.40	170.00
06/28/11	Conference with M. Christoff regarding [REDACTED] (.20); assist C. Robertson with [REDACTED] documents for review for deposition preparation (.10).	S. Knight	0.30	60.00
06/28/11	Call with S. Knight regarding review of database regarding hot documents in connection with [REDACTED] (.20); review documents regarding [REDACTED] (2.60); draft outline for depositions of S. [REDACTED] (.80); review legal memorandum prepared by D. Bochniak regarding [REDACTED] (.70).	C. Robertson	4.30	2,214.50
06/28/11	Prepare electronically stored information received from [REDACTED] (.20).	M. Christoff	0.20	40.00
06/29/11	Communication with C. Robertson regarding [REDACTED] (.60); review select document from Nuix database regarding [REDACTED] (.70).	G. Paloian	1.30	747.50

- 0.2 x \$85 = - \$17

<u>Date</u>	<u>Description</u>	<u>Document</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Value</u>
06/06/11	Review documents produced to [REDACTED] (30); prepare memorandum summarizing telephone conference with [REDACTED] (30); conference with J. DeJonker and S. Knight regarding [REDACTED] (20); examine reviewer pace and progress for additional concepts relating to [REDACTED] (30); additional correspondence with [REDACTED] (20).		J. Priebe	1.30	552.50
06/07/11	Review/annotate cases pertaining to [REDACTED]		D. Bochniak	3.00	915.00
⑦				- \$915 x .1 = - \$91.50	
06/07/11	Revise memorandum regarding strategies for [REDACTED] (.50); revise complaint against [REDACTED] (.40); strategy discussion with M. Johnson regarding complaint against [REDACTED] (.10); strategy discussion with C. Robertson regarding [REDACTED] (.20); strategy discussion with [REDACTED] (.10); locate and forward case law regarding [REDACTED] (.10).		A. Banas	1.40	476.00
06/07/11	Advise G. Paloian regarding status of adversaries (.10); revise status spreadsheet (.20).		J. McManus	0.30	73.50
06/07/11	Review documents regarding meeting with [REDACTED] (3.20); review CaseMap regarding [REDACTED] (.70); review various financial statements regarding [REDACTED] (.60); call with J. DeJonker regarding [REDACTED] (.30); review accounting literature regarding [REDACTED] (.80).		C. Robertson	5.60	2,884.00
06/07/11	Further analysis regarding draft of [REDACTED] (.50); inter office conference with A. Banas regarding same (.40); telephone conference with [REDACTED] (.30); further analysis regarding same (.50); inter office conference with A. Banas regarding [REDACTED] (.20); review of research regarding [REDACTED] (.40).		M. Johnson	2.30	1,104.00

<u>Date</u>	<u>Description</u>	<u>Document</u>	<u>Page 5 of 6</u> <u>Timekeeper</u>	<u>Hours</u>	<u>Value</u>
06/13/11	Analyze case law provided by [REDACTED] (.40); analyze fraudulent transfers from Canopy to [REDACTED] (.10); review detailed settlement offer [REDACTED] (.10); strategy discussions with G. Paloian and J. Sowka regarding [REDACTED] (.10); email to [REDACTED] (.10); strategy meeting with M. Johnson regarding [REDACTED] (1.10); follow-up meeting with M. Johnson with [REDACTED] (4.90).		A. Banas	6.80	2,312.00
06/13/11	Conference with R. Pinkston regarding [REDACTED] (.10); email correspondence with [REDACTED] (.10).		C. Harney	0.20	61.00
06/13/11	Call with [REDACTED] (.70); review prior correspondence between trustee and [REDACTED] (.20); review [REDACTED] (.80).		C. Robertson	1.70	875.50
06/13/11	Analysis of [REDACTED] (1.00); interoffice conference with G. Paloian regarding [REDACTED] (.10); further analysis of draft [REDACTED] (.70); analysis of [REDACTED] (.60); interoffice conference with A. Banas regarding [REDACTED] (1.50); review of [REDACTED] (1.00); continue review and analysis of [REDACTED] (1.00).		M. Johnson	5.90	2,832.00
06/13/11	Review of [REDACTED]		J. DeJonker	0.10	46.00
06/13/11	Compile Ringtail emails pertaining [REDACTED]		A. Shepro	0.40	34.00
06/13/11	Conference call with [REDACTED] (.20); review various emails from [REDACTED] (.40); analysis and strategy regarding [REDACTED] (.20).		J. Priebe	0.80	340.00
06/14/11	Review (.10) and comment on [REDACTED] (.10).		G. Paloian	0.20	115.00

-4.9 x .1 x \$340 = -\$166.60

<u>Date</u>	<u>Description</u>	<u>Document</u>	<u>Page 6 of 6</u> <u>Timekeeper</u>	<u>Hours</u>	<u>Value</u>
07/20/11	Compile LegalPeople Fee Application, Notice, Cover Sheet and Exhibits for filing with the Courts (.30); Compile Stoneturn Fee Application, Notice, Cover Sheet and Exhibits for filing with the Courts (.30); Compile Winthrop & Weinstine Fee Application, Notice, Cover Sheet and Exhibits for filing with the Courts (.30); Compile Alvarez and Marsal Fee Application, Notice, Cover Sheet and Exhibits for filing with the Courts (.40); review Fee Apps with J. McManus (.30); edit A&M Notice (.10).		A. Shepro	1.70	144.50
07/21/11	Third Interim LegalPeople Fee Application, Second Winthrop and Weinstine, Second Stoneturn Fee Application, and Second Alvarez & Marsal Fee Application from the Court docket for J. McManus.		A. Shepro	0.70	59.50
(4)					-\$59.50
07/22/11	Review Jenner time detail for fee application.		G. Paloian	0.40	230.00
08/16/11	Prepare Motion to Amend Order regarding Winthrop Fees.		J. McManus	0.40	98.00
08/17/11	Communicate with V. Lazar regarding Jenner fee application order.		G. Paloian	0.10	57.50
08/25/11	Review Polsinelli time detail.		G. Paloian	0.10	57.50
08/26/11	Review Polsinelli Fourth Fee Application.		G. Paloian	0.50	287.50
08/29/11	Review Polsinelli Fourth Fee application.		G. Paloian	0.30	172.50
09/19/11	Review contract attorneys' time sheets for week ending Sept. 18, 2011.		A. Banas	0.10	34.00
09/22/11	Review and process contract attorneys' final timesheets relating to [REDACTED]		A. Banas	0.10	34.00
09/23/11	Exchange emails with P. McGrath of A&M and J. McManus regarding timing for filing of next round of professional fee applications.		J. Sowka	0.10	37.50
09/29/11	Conference with J. McManus regarding Polsinelli fee order.		G. Paloian	0.10	57.50
09/29/11	Review A&M Fee Application (.10); draft Legalpeople Fee Application (.20); confer with G. Nuzzi regarding preparation of same (.10); assemble Legalpeople exhibits for G. Nuzzi (.20).		J. McManus	0.60	147.00
09/30/11	Prepare Fourth Interim LegalPeople LLC Fee Application (1.00); assemble exhibits to same (.50).		G. Nuzzi	1.50	307.50
Task Subtotal					\$11,497.00